

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MICHAEL DEAN ADKISSON,

Case No.: 2:14-cv-01934-APG-CWH

Petitioner

**ORDER**

v.

D.W. NEVEN, et al.,

Respondents

In November 2019, this court granted petitioner Michael Dean Adkisson's motion to stay case (ECF No. 91). Adkisson's state-court proceedings have concluded, and the Federal Public Defender (FPD), counsel for Adkisson, has filed a motion to reopen this federal habeas petition (ECF No. 94). The FPD has also filed a motion to withdraw as counsel for petitioner (ECF No. 96). Counsel explains that he and Adkisson have a fundamental disagreement about how to proceed in this case and that there has been an irrevocable breakdown of the attorney-client relationship that has resulted in an actual conflict of interest. Respondents have indicated that they do not oppose either motion (ECF No. 96). Good cause appearing, the motion to reopen the case is granted.

With respect to the motion to withdraw, petitioner's counsel points to a "notice" that Adkisson filed *pro se* (ECF No. 93). Adkisson's second-amended petition is fully briefed on the merits (*see* ECF Nos. 28, 49, 60). In his purported notice, Adkisson states that he wants to file a third-amended petition and expresses his displeasure with the FPD (*see* ECF No. 93). Indeed, the FPD indicates that Adkisson has urged him to file another amended petition, but counsel has explained his reasons for not further amending the petition (ECF No 96). The disagreement over

1 whether to further amend forms the basis for the breakdown of the attorney-client relationship. In  
2 light of the conflict, I grant the motion to withdraw.

3 If Adkisson wishes to seek leave to file an amended petition, he must file a motion for  
4 leave to amend pursuant to Local Rule 15-1. He must also attach to any such motion a proposed  
5 amended petition. His “notice” is a fugitive pleading, and the court will not consider it.

6 I THEREFORE ORDER that petitioner’s motion to reopen case (ECF No. 94) is  
7 **GRANTED.**

8 I FURTHER ORDER that counsel for petitioner’s motion to withdraw (ECF No. 96) is  
9 **GRANTED.** The FPD is withdrawn as counsel of record for this case.

10 I FURTHER ORDER that, within **30 days** of the date of this order, petitioner file a  
11 motion for leave to file an amended petition, if any. He must attach a proposed amended petition.

12 I FURTHER ORDER that if petitioner does not file a motion for leave to amend within  
13 30 days, the second-amended petition will stand briefed and ready for a merits decision.

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15 Dated: July 20, 2021

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18 U.S. District Judge Andrew P. Gordon  
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